

AMENDED IN SENATE JULY 2, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY APRIL 23, 2003

AMENDED IN ASSEMBLY APRIL 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1690**

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**Introduced by Assembly Member Leno**  
**(Principal coauthor: Assembly Member Lieber)**

**(Coauthors: Assembly Members Bermudez, Calderon, Chavez,  
Goldberg, Koretz, Laird, Montanez, Nation, Pavley, Steinberg,  
Vargas, Wiggins, and Yee)**

**(Coauthor: Senator Burton)**

February 21, 2003

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An act to add Article 4 (commencing with Section 55650) to Chapter 4 of Part 2 of Division 2 of Title 5 of the Government Code, and to amend Sections 17041.5 and 19533 of, to add Section 99.3 to, and to add Part 10.1 (commencing with Section 18201) to, the Revenue and Taxation Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1690, as amended, Leno. Public safety finance agencies.

Under existing law, local fire protection services may be provided by, among other entities, a fire protection district, which may comprise territory including cities or counties, by a fire department or company organized in an unincorporated town, or by a fire department established by a city or county.

This bill would authorize any city, county, or city and county to form a public safety finance agency, *as specified*, for the purposes of ~~supplementing financing supplemental~~ fire protection or police or sheriff services, and financing needed capital improvements for its fire or police or sheriff's department or for any other public agency that provides fire protection or police or sheriff services within its boundaries.

Existing law provides that, with the exception of a business license tax, a city, county, city and county, or any other local entity may not impose or collect a local income tax.

This bill would authorize any city, county, or city and county that forms a public safety finance agency to levy a local general income tax, if that tax is approved by a majority of the voters voting on that tax. This bill would require the Franchise Tax Board (FTB) to administer and collect these local income taxes and require the board to transmit the revenues derived from these taxes within 60 days of collection. This bill would also authorize the FTB to deduct its costs in collecting the tax prior to transmitting the revenues to the imposing local entity.

This bill would also require *the county auditor*, in the case of a local government that has both formed a public safety finance agency and adopted a local income tax, ~~that property tax revenue be annually assigned to the public safety finance agency, from the forming local government, in an amount that is equal to 50% of the amount of revenues estimated to be collected from the local income tax in the first 12 months of imposition in the fiscal year that begins during the first taxable year in which a local income tax is imposed by an entity in the county, to allocate the qualified public safety amount, as defined, to a public safety finance agency, and to commensurately reduce the amount of ad valorem property tax revenue allocated to the county or city that formed the public safety finance agency by this same amount. This bill would also require the county auditor, in the fiscal year that begins during the first fiscal year in which a city, county, or city and county ceases to impose an income tax, to reduce the total amount of ad valorem property tax revenue allocated to a public safety finance agency by the adjusted qualified public safety amount, as defined, and commensurately increase the total amount of ad valorem property tax revenue allocated to the city, county, or city and county that formed the agency. This bill would also require that ad valorem property tax revenue allocations in subsequent fiscal years incorporate the allocation adjustments required by the bill, as provided.~~ This bill would



also require the governing board of a public safety finance agency to annually allocate these revenues according to a specified formula. By imposing new revenue allocation duties upon local officials, this bill would impose a state-mandated local program. This bill would also provide that if any provision of the bill, or any properly proposed ordinance enacted pursuant to the act, is invalidated by an appellate court, then the remaining provisions of the bill shall become inoperative.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 4 (commencing with Section 55650) is  
2 added to Chapter 4 of Part 2 of Division 2 of Title 5 of the  
3 Government Code, to read:

4

5 Article 4. Public Safety Finance Agency

6

7 55650. (a) Any city, county, or city and county may form, by  
8 ordinance, a public safety finance agency for the following  
9 purposes:

10 (1) To ~~supplement~~ *finance supplemental* fire protection  
11 services and finance needed capital improvements for its fire  
12 department or other outside agency that provides structural fire  
13 protection services within the boundaries of that city, county, or  
14 city and county.

15 (2) To ~~supplement~~ *finance supplemental* police or sheriff  
16 services and finance needed capital improvements for its police or



1 sheriff's department or other outside agency that provides police  
2 or sheriff services within the boundaries of that city, county, or city  
3 and county.

4 (b) In the case of a city, county, or city and county that does not  
5 directly provide either its own fire protection services or its own  
6 police or sheriff services, or both, that portion of the funds of the  
7 public safety protection agency that are available for the category  
8 of services not directly provided may be made available only to the  
9 outside agency that directly provides that same category of  
10 services within the boundaries of the city, county, or city and  
11 county.

12 (c) (1) (A) *The governing body of the city, county, or city and*  
13 *county that forms a public safety finance agency shall be the*  
14 *governing body of the public safety finance agency.*

15 (B) *The members of the governing body of a public safety*  
16 *finance agency shall serve in that capacity without compensation*  
17 *or reimbursement for travel, per diem, or other expenses.*

18 (2) When a decision, determination, or other action by the  
19 public safety finance agency formed pursuant to this section is  
20 required by this article, the governing body of that agency may not  
21 delegate the obligation to decide, determine, or act to another  
22 entity, unless this article specifically provides for that delegation.

23 (d) *The territorial boundaries of a public safety finance agency*  
24 *are coterminous with the territorial boundaries of the city, county,*  
25 *or city and county that forms the public safety finance agency.*

26 (e) A public safety finance agency formed pursuant to this  
27 section may, in addition to any funds provided by the city, county,  
28 or city and county that formed that agency, accept financial  
29 assistance from the state or federal government or any public or  
30 private source for any purpose set forth in subdivision (a).

31 ~~(e)~~

32 (f) All funds of a public safety finance agency formed pursuant  
33 to this section shall be held in trust for the purposes set forth in  
34 subdivision (a) and may not be utilized to supplant other funds  
35 applied to fire protection or police or sheriff services.

36 55651. *In each fiscal year, the governing body of a public*  
37 *safety finance agency shall allocate the revenues received*  
38 *pursuant to Section 99.3 of the Revenue and Taxation Code in the*  
39 *following manner:*

1 (a) Forty percent for the purposes described in paragraph (1)  
2 of subdivision (a) of Section 55650.

3 (b) Forty percent for the purposes described in paragraph (2)  
4 of subdivision (a) of Section 55650.

5 (c) Twenty percent for the purposes specified in subdivision (a)  
6 of Section 55650 as specified in a written agreement between the  
7 following parties:

8 (1) The chief fire official that directly provides public safety  
9 services in the city, county, or city and county that formed the  
10 public safety finance agency.

11 (2) As applicable, the sheriff or police chief that directly  
12 provides public safety services in the city, county, or city and  
13 county that formed the public safety finance agency.

14 SEC. 2. Section 99.3 is added to the Revenue and Taxation  
15 Code, to read:

16 99.3. For the purposes of the computations required by this  
17 chapter:

18 (a) If a public safety finance agency is formed by a city, county,  
19 or city and county ordinance pursuant to Section 55650 of the  
20 Government Code and is located within a city, county, or city and  
21 county for which an income tax authorized by Part 10.1  
22 (commencing with Section 18201) has been approved by the  
23 voters, the auditor shall assign to that public safety finance agency  
24 that portion of the annual property tax revenue allocation  
25 determined pursuant to Section 96 or subdivision (a) of Section  
26 96.1 for that city, county, or city and county in an amount equal to  
27 50 percent of the amount estimated by the Franchise Tax Board  
28 pursuant to subdivision (c) to be collected on behalf of the city,  
29 county, or city and county during the first 12 months in which the  
30 income tax is imposed. In each fiscal year that follows a fiscal year  
31 in which an assignment of ad valorem property tax revenues is  
32 made pursuant to this subdivision, ad valorem property tax  
33 revenue allocations made pursuant to Sections 96.1 and 96.5 shall  
34 fully reflect the allocation adjustments required by that  
35 assignment. In each fiscal year, the governing board of a public  
36 safety finance agency shall allocate the property tax revenues it  
37 receives under this subdivision according to the following:

38 (1) Forty percent for the purposes described in paragraph (1) of  
39 subdivision (a) of Section 55650 of the Government Code.

~~(2) Forty percent for the purposes described in paragraph (2) of subdivision (a) of Section 55650 of the Government Code.~~

~~(3) Twenty percent for the purposes specified in subdivision (a) of Section 55650 of the Government Code as specified in a written agreement between the following parties:~~

~~(A) The chief fire official that directly provides public safety services in the city, county, or city and county that formed the public safety finance agency.~~

~~(B) As applicable, the sheriff or police chief that directly provides public safety services in the city, county, or city and county that formed the public safety finance agency.~~

~~(b) been approved by the voters, in the fiscal year that begins during the first taxable year in which that income tax is imposed, the auditor shall do both of the following:~~

~~(1) Allocate the qualified public safety amount to a public safety finance agency.~~

~~(2) Reduce the total amount of ad valorem property tax revenue allocated to a city, county, or city and county that formed the public safety finance agency by the qualified public safety amount.~~

~~(b) In the fiscal year that begins during the first taxable year in which a city, county, or city and county ceases to impose an income tax pursuant to Part 10.1 (commencing with Section 18201), the auditor shall do both of the following:~~

~~(1) Reduce the total amount of ad valorem property tax revenue allocated to a public safety finance agency by the adjusted qualified public safety amount.~~

~~(2) Increase the total amount of ad valorem property tax revenue allocated to the city, county, or city and county that formed the public safety finance agency by the adjusted qualified public safety amount.~~

~~(c) In each fiscal year that follows a fiscal year in which subdivision (a) or (b) applies, ad valorem property tax revenue allocations made pursuant to Sections 96.1 and 96.5 shall fully incorporate the allocation adjustments made by this section.~~

~~(d) For purposes of this section:~~

~~(1) "Qualified public safety amount" means an amount of ad valorem property tax revenue equal to the lesser of:~~

~~(A) Fifty percent of the amount, estimated by the Franchise Tax Board pursuant to paragraph (2) of subdivision (e), to be collected on behalf of the city, county, or city and county that formed the~~

1 *public safety finance agency during the first 12 months in which*  
2 *an income tax is imposed by that entity.*

3 (B) *All of the ad valorem property tax revenue that is to be*  
4 *allocated to the city, county, or city and county that formed the*  
5 *public safety finance agency in the fiscal year in which subdivision*  
6 *(a) applies.*

7 (2) *“Adjusted qualified public safety amount” means an*  
8 *amount of property tax equal to the total amount of property tax*  
9 *revenue that would be allocated to a public safety finance agency*  
10 *in the fiscal year in which subdivision (b) applies.*

11 (e) (1) Upon the approval of an income tax authorized by Part  
12 10.1 (commencing with Section 18201), the imposing city, county,  
13 or city and county shall give notice of that approval to the  
14 Franchise Tax Board, and to the assessor and auditor of the county  
15 within which the territory subject to the public safety finance  
16 agency is located. This notice shall specify the city, county, or city  
17 and county that has approved the imposition of the income tax.

18 ~~(e)–~~

19 (2) The Franchise Tax Board shall, within 60 days of notice of  
20 the approval of the *income* tax authorized by Part 10.1  
21 (commencing with Section 18201), estimate, based upon  
22 historical data on state income tax collections for residents of that  
23 city, county, or city and county, the amount of *income* tax to be  
24 collected on behalf of the city, county, or city and county in the first  
25 12 months in which that *income* tax is imposed. The Franchise Tax  
26 Board shall notify the county auditor of its estimate.

27 ~~(d) (1) The county assessor shall provide to the county auditor,~~  
28 ~~within 30 days of the notice of approval of an income tax~~  
29 ~~authorized by Part 10.1 (commencing with Section 18201), a~~  
30 ~~report that identifies the assessed valuations for the tax rate areas~~  
31 ~~within the jurisdiction of the public safety finance agency.~~

32 ~~(2) The auditor shall estimate the amount of property tax~~  
33 ~~revenue derived from the tax rate areas that are within the~~  
34 ~~jurisdiction of the public safety finance agency.~~

35 ~~(3) The auditor shall estimate that portion of the property tax~~  
36 ~~revenue determined pursuant to paragraph (2) that is to be assigned~~  
37 ~~to the public safety finance agency pursuant to subdivision (a).~~

38 ~~(4) The auditor shall, within 45 days of receipt of the notice~~  
39 ~~under subdivision (e), notify the governing body of the city,~~



~~county, or city and county that formed the public safety finance  
agency of the assignment to be made pursuant to subdivision (a).~~

SEC. 3. Section 17041.5 of the Revenue and Taxation Code  
is amended to read:

17041.5. Except as provided in Part 10.1 (commencing with  
Section 18201), notwithstanding any statute, ordinance,  
regulation, rule or decision to the contrary, no city, county, city and  
county, governmental subdivision, district, public and  
quasi-public corporation, municipal corporation, whether  
incorporated or not or whether chartered or not, shall levy or  
collect or cause to be levied or collected any tax upon the income,  
or any part thereof, of any person, resident or nonresident.

SEC. 4. Part 10.1 (commencing with Section 18201) is added  
to the Revenue and Taxation Code, to read:

#### PART 10.1. LOCAL INCOME TAX

18201. (a) (1) Any city, county, or city and county that has  
formed a public safety finance agency by ordinance pursuant to  
Section 55650 of the Government Code may levy a general tax  
upon the taxable income of any individual who is a resident of the  
city, county, or city and county for each taxable year beginning on  
or after January 1, 2004. The tax may not exceed an amount equal  
to the net tax defined in Section 17039 multiplied by:

(A) Eight percent with respect to a tax levied by a city.

(B) Two percent with respect to a tax levied by a county.

(C) Ten percent with respect to a tax levied by a city and county.

(2) Any ordinance adopted by a city, county, or city and county  
for the purpose of levying a tax on income shall be subject to  
approval by a majority of the voters voting on that issue at an  
election.

(b) This section may not be construed so as to prohibit the levy  
or collection of any otherwise authorized license tax upon a  
business measured by or according to gross receipts.

18202. A local tax imposed under this part shall be  
administered in the same manner as a tax imposed under Part 10  
(commencing with Section 17001). Part 10.2 (commencing with  
Section 18401) shall apply to any tax imposed under this part in  
the same manner and with the same force and effect and to the full  
extent as if the language of that part has been incorporated in full



into this part, except to the extent that any provision is inconsistent with this part or is not relevant to this part.

18203. For purposes of this part, the term “resident” ~~has the same meaning as under Section 17014, modified by substituting “the city,” “the county,” or “the city and county,” as applicable, in lieu of “this state.”~~ *means an individual who resides in the city, the county, or the city and county, for more than six months during the taxable year.*

18204. (a) (1) The Franchise Tax Board shall revise the personal income tax returns required to be filed pursuant to Part 10.2 (commencing with Section 18401) to allow an individual to report and pay a local income tax in accordance with this part. The returns shall require the taxpayer to include the individual’s city and county of residence.

(2) *If a taxpayer fails to include the taxpayer’s city and county of residence on the return, the city and county of residence will be the city and county as may be determined by the Franchise Tax Board.*

(3) *If a taxpayer fails to include a city or county of residence on the return as required by paragraph (1), then any adjustment required to make the local income tax assessment on the return shall be treated as arising out of a mathematical error and assessed and collected under Section 19051.*

(b) ~~Subdivision~~ Paragraph (1) of subdivision (a) does not apply with respect to returns for any taxable year beginning on or after January 1 of a calendar year unless the Franchise Tax Board receives notice of approval of a local income tax, as required by Section 99.3, by June 1 of that calendar year.

~~18205. The board shall transmit local income tax revenues collected pursuant to this part, net of refunds and net of an amount equal to the costs incurred by the Franchise Tax Board in implementing and administering the tax authorized in this part and related statutes as added or amended by the act adding this part,~~

18205. *The Franchise Tax Board shall transmit local income tax revenues and applicable penalties and interest collected pursuant to this part, net of refunds, to the city, the county, or the city and county to which the amount due is owing on or before 60 days after ~~collecting the tax~~ the personal income tax return is processed or the income tax is collected, whichever is later.*

1     18206. A city or county that enacts a local income tax in  
2     accordance with this part shall enter into an agreement with the  
3     Franchise Tax Board to provide for reimbursement to the  
4     Franchise Tax Board of expenses incurred by the Franchise Tax  
5     Board to implement and administer this part.

6     SEC. 5. Section 19533 of the Revenue and Taxation Code is  
7     amended to read:

8     19533. In the event the debtor has more than one debt being  
9     collected by the Franchise Tax Board and the amount collected by  
10    the Franchise Tax Board is insufficient to satisfy the total amount  
11    owing, the amount collected shall be applied in the following  
12    priority:

13    (a) Payment of any delinquencies transferred for collection  
14    under Article 5 (commencing with Section 19270) of Chapter 5.

15    (b) Payment of any taxes, additions to tax, penalties, interest,  
16    fees, or other amounts due and payable under Part 7.5  
17    (commencing with Section 13201), Part 10 (commencing with  
18    Section 17001), Part 11 (commencing with Section 23001), or this  
19    part.

20    (c) Payment of any taxes, additions to tax, penalties, interest,  
21    fees, or other amounts due and payable under Part 10.1  
22    (commencing with Section 18201).

23    (d) Payment of delinquent wages collected pursuant to the  
24    Labor Code.

25    (e) Payment of delinquencies collected under Section 10878.

26    (f) Payment of any amounts due that are referred for collection  
27    under Article 5.5 (commencing with Section 19280) of Chapter 5.

28    (g) Payment of any amounts that are referred for collection  
29    pursuant to Section 62.9 of the Labor Code.

30    (h) Payment of delinquent penalties collected for the  
31    Department of Industrial Relations pursuant to the Labor Code.

32    (i) Payment of delinquent fees collected for the Department of  
33    Industrial Relations pursuant to the Labor Code.

34    (j) Notwithstanding the payment priority established by this  
35    section, voluntary payments made by a taxpayer designated by the  
36    taxpayer as payment for a personal income tax liability, shall not  
37    be applied pursuant to this priority, but shall instead be applied  
38    solely to the personal income tax liability for which the voluntary  
39    payment was made.

1 SEC. 6. If any provision of this act, or any ordinance that is  
2 properly proposed by a local governing body pursuant to this act,  
3 is held invalid in a final decision of an appellate court, the  
4 remaining provisions of this act shall become inoperative.

5 SEC. 7. Notwithstanding Section 17610 of the Government  
6 Code, if the Commission on State Mandates determines that this  
7 act contains costs mandated by the state, reimbursement to local  
8 agencies and school districts for those costs shall be made pursuant  
9 to Part 7 (commencing with Section 17500) of Division 4 of Title  
10 2 of the Government Code. If the statewide cost of the claim for  
11 reimbursement does not exceed one million dollars (\$1,000,000),  
12 reimbursement shall be made from the State Mandates Claims  
13 Fund.

